1952

File No. Drugs II
52 (N)

Legal Department.

B **BRANCH**

P7(E)

K

Subject:—

Notifications under

the Drugs Act, 1940.

File No. Drugs II/52(N)

Gen. 178

271-B

LEGAL DEPARTMENT.

In para. 3 of the note of L.S.G. & P.H.D. at page 19, reference is made to paras. 4 and 5 of the Drug Controller's letter and R.L.A. is asked to advise in the matter. Neither this note nor paras. 4 and 5 of the Drug Controller's letter specify the points on which further legal advise is sought. Unless the points on which Legal advice is sought are expressly stated, it is difficult to tender any advice. No useful purpose can be served by carrying on arguments which are of a rambling nature. In this connection the attention of L.S.G. & P.H.D. is invited to the Secretariat Instructions No.40(2). Moreover, so far as the particular case of taking action against Messrs. Thomason and Taylor Ltd. is concerned, the Drug Controller has himself stated that no further action is called for now against this firm. It appears that Government has accepted this recommendation. In that case the points raised by the Drug Controller are of hypothetical nature and it is not proper to refer them for legal opinion. The judgment of the Delhi Judge which has been forwarded for perusal has to be read with the facts of that case and does not affect the opinion already given .

Id/-J.R.D. 17/3
Additional Secretary to Government.

U.R.to L.S.G. & P.H.D.No. 263, dated the 17th March 1952.

BKS. 27/6/ 4c.

JR 2/7

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NOTIFICATION.

Local Self Government & Public Health Department,
Bombay Castle, 1952.

Drugs Act,1940.

No.7015/33 .- The following draft of a notification which it is proposed to issue under section 33 of the Drugs Act,1940 (XXIII of 1940), is published as required by sub-section (1) of the said section 33 for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration by the Government of Bombay on or ~~before~~ after the 1952.

2. Any objections or suggestions which may be received by the Deputy Secretary to the Government of Bombay in the Local Self Government and Public Health Department from any person with respect to the said draft on or before the aforesaid date will be considered by Government.

DRAFT NOTIFICATION.

In exercise of the powers conferred by section 33 of the Drugs Act,1940 (XXIII of 1940) and after consultation with the Board, the Government of Bombay is pleased to amend the Bombay Drugs Rules, 1946, as follows , namely :-

The Drugs Rules, 1945, as applied by rule 2 of the Bombay Drugs Rules, 1946, to the State of Bombay, shall be amended as follows, namely :-

In part I of the Schedule F to the said rules, under the heading "(A) Provision applicable to the Production of Bacterial ~~Xxxxxx~~ Vaccines", in paragraph 6 after sub-para (2) the following sub-para shall be inserted, namely :-

"(3) In the case of Anti-Typhoid-Paratyphoid (T.A.B) Vaccine and cholera vaccine, the date of expiry of potency shall be indicated on the label

on the container. The date of expiry of the potency of the vaccine shall be such date as expires on the last day of the 18th month counted from the date of its manufacture.".

By order of the Governor of Bombay,

Deputy Secretary to Government.

BKS. 27/6/ 4c.

Legal Department.

The draft Order at page 11 ante as amended is in order. The Drugs Controller may be instructed to take steps to approve the persons for the purposes of clause (iii) of the proposed Order. In view of the definition of "drug" in clause 2(b) of the Bombay ~~Drugs~~ Drugs Control Order, 1949, it is not necessary to issue any notification on the lines of the Government of India's notification at page 3 ante.

Id/-
28/8
Additional Deputy Secretary to Government.

U.R. to L.S.G. & P.H.D. No. 14052 ,dated the 28th August 1952.

BKS. 27/6/ 4c.

Legal Department.

The Local Self Government and Public Health Department in its note at page 24 ante requests the Legal Department -

(1) to offer its remarks on the suggestion made by the Drugs Controller; and

(2) to see the draft letter at page 25 ante which is proposed to be addressed to the Government of India soliciting concurrence of the Government in respect of notifying the certain drugs as notified drugs.

Suggestion of the Drugs Controller.- Clause 11A providing for prohibition and regulation of disposal of drugs was inserted in the Bombay Drugs Control Order, 1949, only as a tentative measure to meet the urgency of controlling certain highly toxic drugs as then desired by the Government of India. The Bombay Drugs (Control) Bill, which will shortly become law, is a permanent measure and clause 8 thereof expressly reproduces the provisions of clause 11A of the Bombay Drugs Control Order so that such drugs can be controlled under the Act. The proper course would be to renotify the toxic drugs under an order issued under section 8 of the Bombay Drugs (Control) Act when enacted. However, as long as the three drugs in question are not renotified as "notified drugs", the restriction imposed thereon under clause 11A of the Bombay Drugs Control Order, 1949, will continue. When an order under section 8 of the Bombay Drugs (Control) Act is issued it will be necessary to cancel 11A of the Bombay Drugs Control Order and also the notifications issued under that clause. The suggestion made by the Drugs Controller may, therefore, be accepted.

Draft letter at page 25 ante .- The draft letter as amended may issue.

Before any drugs are notified under sections 3(1) and 3(2), it would be necessary to issue

a notification under section 1(3) of the Act bringing the Act into force.

Id/-
27-9
Additional & Deputy Secretary to Government.

U.R. to L.S.G. & P.H.D., No. 989/B..-Confl., dated the 29th September 1952.

BKS. 26
27/6/
4c.

Legal Department.

It was pointed out to the Local Self Government and Public Health Department under this Department U.R. No. 989/B Confl. dated the 29th September 1952 that so long as the three drugs in question are not re-notified as "notified drugs under the Bombay Drugs (Control) Act, 1952, the restriction imposed thereon under clause 11A of the Bombay Drugs Control Order, 1949, will continue. If therefore the intention is that the three said drugs should be controlled in the same manner in which they are being controlled under Local Self Govenment and Public Health Department Orders No. 6452/32, dated the 11th June 1952 and 29th August 1952 respectively, no steps should be taken to notify them as notified drugs under the Bombay Drugs (Control) Act, 1952. The Local Self Government and Public Health Department may afterwards consider the provisions of the existing aforesaid two orders and the orders proposed to be issued under the Bombay Drugs (Control) Act, and take the ~~xx~~ necessary order of Government with reference to the Government of India's letter at P. 1 ante.

Id/-

For Additional Secretary to Government.

U.R. to L.S.G. & P.H.D. No.18357/B dated 4th November 1952.

BKS.

27/6/

4c.